

ADP Ethics & the Internet

June 18, 2003

Use of Government Property

Basic Rule

- **Employees shall not use government property for “other than authorized purposes.” [5 CFR 2635.704]**
- **Must look at the regulations that govern different types of government property.**
- **See Recommended Executive Branch Model Policy/Guidance on "Limited Personal Use" of Government Office Equipment including Information Technology“ at:**
- **http://www.cio.gov/documents/peruse_model_May_1999.pdf.**

Personal Use of the Internet

- **DLAD 5025.30 , Internet And Web Development Oversight**
- **Para 3.1.1. While the intent of the sizeable DLA investment in the Internet is to support the accomplishment of the DLA mission, it shall be permissible for the workforce to use these tools for personal use provided that use is reasonable, appropriate, and does not unduly burden the system.**

Personal Usage of Internet

- **4.6.1.2.2. Personal Usage: DLA personnel may use DLA Internet access for non-official use provided:**
- **4.6.1.2.2.1. Usage does not adversely affect the employee's performance or accomplishment of the DLA or DOD mission and usage does not reflect adversely on DLA, DOD, or the Federal Government as a whole.**
- **4.6.1.2.2.2. Usage will occur on breaks, lunch periods, and non-duty hours.**
- **4.6.1.2.2.3. Usage precludes any unnecessary costs or appearance of impropriety to the Federal Government.**
- **4.6.1.2.4. Be aware that misuse of the DLA Internet and Intranet may result in disciplinary action.**

Cannot Overload Network

4.6.1.2.2.4. DLA personnel shall not engage in deliberate activities that overload network resources. These activities include:

- the downloading of large music or video files for personal use**

- (network bandwidth consumption caused by such downloads may inhibit or prohibit network service to other users).**

Prohibited Internet Usage

4.6.1.2.3. Prohibited Usage: DLA personnel are to be aware that Internet usage can be monitored, leaving a clear audit trail, and that the misuse of this asset may result in disciplinary action. Prohibited usage includes:

4.6.1.2.3.1. Knowingly viewing, receiving, or transmitting material with pornographic content.

4.6.1.2.3.2. Conducting illegal activities & soliciting for personal gain.

4.6.1.2.3.3. Downloading copyrighted software without express permission.

4.6.1.2.3.4. Downloading without ensuring protection against viruses.

4.6.1.2.3.5. Misrepresenting personal opinion as official information.

Limited Personal Use of Government Office Equipment

- Federal employees are permitted limited use of government office equipment for personal needs if the use does not interfere with official business & involves minimal additional expense to the Government.
- This limited personal use of government office equipment should take place during the employee's non-work time. This **privilege** to use Government office equipment for nongovernmental purposes may be revoked or limited at any time by appropriate Federal agency or department officials.

Govt. Office Equipment

2. Government office equipment including information technology includes but is not limited to:

personal computers & related peripheral equipment & software,

Internet connectivity & access to internet services, & E-mail.

library resources,

Telephones (note special restrictions on cell phones vs. land-based lines),

facsimile machines & photocopiers,

office supplies,

This list is provided to show examples of office equipment as envisioned by Federal CIO Council Recommended Executive Branch Model Policy. Executive Branch managers may include additional types of office equipment.

Government Property -- E-Mail

Per JER Para. 2-301a, Govt. e-mail may be used for personal communications if supervisor (who is commissioned officer or GS-11 or above) determines:

- (1) No adverse effect on performance of duties,**
- (2) Use is of reasonable duration & frequency,**
- (3) Use serves a legitimate public interest,**
- (4) Use does not reflect adversely on DOD,**
- (5) Use does not overburden the system, and**
- (6) Use does not create significant additional cost.**

Government Property -- E-Mail

Per JER Para. 2-301a: Govt. e-mail may not be used for the following:

- (1) Sending items in violation of copyright laws**
- (2) Sending e-mail for personal financial gain**
- (3) Misrepresenting your identity or affiliation**
- (4) Sending harassing or offensive material, including humor in poor taste, political or religious lobbying, or pornographic items**
- (5) Using someone else's userID w/o authority**
- (6) Causing congestion on the network**

Hatch Act Restrictions

Federal Government employees may not engage in political activity “in a Government office.” This includes using the Government Internet connection or email even on your personal time. If you have questions about what this “political activity” involves you should see your Ethics counselor or review the material on the Office of Special Counsel’s website:

<http://www.osc.gov/documents/hatchact/hatchact2.ppt>

http://www.osc.gov/documents/hatchact/ha_fed.pdf

Permissible Political Activities

You can find coverage on permissible political activities in Chapter 6 of the DOD Standards of Conduct found at:

http://www.defenselink.mil/dodgc/defense_ethics/ethics_regulation/dir.doc

The Hatch Act generally forbids activity in a Government office, during duty hours or in a government vehicle which is directed at the success or failure of a candidate or party.

Miscellaneous -- Anti-Lobbying Rules

- **18 USC 1913 states that appropriated funds may not be used to favor or oppose any legislation or appropriation pending before the Congress.**
- **The DOJ has interpreted the statute as prohibiting substantial “grass roots” lobbying, i.e., an appeal by a government organization to members of the public to contact legislators in order to influence pending legislation or appropriations.**
- **Also, every year the DoD Appropriations Act has provisions against lobbying.**

Criminal Copyright Violations

Criminal penalties for willful infringement of copyright law include up to 5 years imprisonment for first offenses and up to 10 years imprisonment for subsequent offenses and fines as indicated in 17 USC § 506 and 18 USC § 2319.

You can tell that a work is copyrighted if the symbol ©, the abbreviation “**copr.**” or the word “**copyright**” appears on the work in question.

Civil Lawsuit for Copyright Violations

By filing a civil law suit, a copyright holder may recover from the copyright infringer actual damages & any profits or at his election statutory damages of a sum between \$750 -\$30,000.

In addition, the court may increase the damages to such amount, not exceeding \$50,000 or \$1 per copy, whichever is greater, as the court determines to be just.

Where the copyright holder can show the infringement was willful, a court can increase statutory damages to \$150,000.

Government Property -- Reservists and Guard Members

- **On 4 Jan 99, the Comptroller General issued an opinion stating that Federal agencies may permit their employees who are Reservists or Guard members to use a limited amount of official time and agency resources to support the Reserves or Guard, subject to supervisor's approval. [Comp. Gen. Decision B-277768]**
- **OPM has drafted guidelines on how much time and what types of resources may be used for these purposes, and under what circumstances.**

http://www.defenselink.mil/dodgc/defense_ethics/ethics_regulation/OPMReserves.htm

Misuse of Position -- Government Time

- **DoD employees must use official time to perform official duties. [5 CFR 2635.705(a)]**
- **DoD employees may not ask or direct their subordinates to use official time for other than official duties. [5 CFR 2635.705(b)]**

Misuse of Position -- Disclosure of Non-Public Information

- **Employees may not disclose non-public information:**
 - **To further their own private interests, OR**
 - **To further the private interests of another.**

What is Non-Public Information?

It includes information that a federal employee knows or reasonably should know:

(1) is routinely exempt from disclosure under 5 USC 552 or otherwise protected from disclosure by statute, executive order, or regulation, such as 48 CFR Parts 3, 14 & 15, 18 USC 1905 and 41 USC 423

(2) is designated as confidential by an agency, or

(3) Has not actually been disseminated to the general public and is not authorized to be made available to the public on request.